

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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STATE OF NEW YORK, et al.,

Plaintiffs,

-v-

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

Defendants.

19 Civ. 4676 (PAE)

19 Civ. 5433 (PAE)

19 Civ. 5435 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has today issued the agreed-upon Order proposed by the parties at Dkt. 87-1. The Court's Order postpones the effective date of the United States Department of Health and Human Services' ("HHS") rule at issue in this litigation ("Final Rule") until November 22, 2019. The Order further vacates the preliminary injunction briefing schedule set forth in the Court's June 7, 2019, Dkt. 27, and June 13, 2019, Dkt. 38, Orders. In light of the above, it is no longer necessary for the conference scheduled for Friday, July 12, 2019 to serve as a hearing on plaintiffs' preliminary injunction motions.

The Court wishes, however, promptly to put in place a schedule in this matter. The Court directs counsel for all parties in the consolidated cases comprising this litigation forthwith to meet and confer with the goals of (1) proposing a briefing schedule on plaintiffs' preliminary injunction motions, and (2) exploring whether a viable schedule can be agreed to that would permit the legality of HHS's Final Rule to be resolved instead on motions or cross-motions for summary judgment and, if so, proposing such a schedule. In considering a suitable schedule for any contemplated motion, the Court expects counsel to be mindful of the Court's interest in

having sufficient time, following the completion of briefing, to hold oral argument and to consider and thoughtfully resolve the important and complex questions presented.

The Court directs counsel to submit a joint letter, due at 12 noon on Wednesday, July 10, 2019, setting forth the parties' joint proposals—or, if agreement is not reached, the parties' alternative proposals—as to such schedules. If the Court determines that further consultation would assist it in setting a schedule, the Court will use the conference currently scheduled for Friday, July 12, 2019, at 2:00 p.m., to take up such questions with counsel. The Court accordingly asks lead counsel to remain available to attend a conference at that date and time, in courtroom 1305 of the Thurgood Marshall United States Courthouse, at 40 Centre Street.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: July 1, 2019
New York, New York